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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,578	11/26/2001	Christof Strohhofer	M-12246 US	7298

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EXAMINER

DERRINGTON, JAMES H

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,578

Applicant(s)

STROHHOFER ET AL.

Examiner

James Derrington

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayakawa et al (Applied Physics Letters, Vol. 74, No. 11, March 1999, pages 1513-1515) in view of Buchal et al (5,174,876).

Hayakawa et al disclose a process of preparing glass materials doped with rare earth ions and silver particles. The materials are useful in the optics industry and have enhanced fluorescence (See Abstract and page 1513, Col. 1). Instant claim 1 includes "ion implantation of said rare earth dopant" while Hayakawa et al employ a sol-gel method (See page 1513, Col. 2). However, Hayakawa et al is aware of fabrication of doped glasses by sol-gel or ion implantation (See page 1513, Col. 1).

Buchal et al disclose that glass optical materials (Col. 2, line 47) containing rare earth dopants can be prepared by ion implantation (Col. 3, lines 13-20). It would have been obvious to use ion implantation for adding the rare earth of Hayakawa et al to the disclosed glass since this process is well recognized by the prior art and would be expected to perform in the art desired manner in view of teachings of both Buchal et al and Hayakawa et al.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayakawa et al (Applied Physics Letters, Vol. 74, No. 11, March 1999, pages 1513-


1515) in view of Buchal et al (5,174,8760 as applied to claim 1 above, and further in view of Viljanen et al or JP6-100333 and its Abstract.

Each of Viljanen et al AND JP6-100333 and its Abstract show that the prior is aware of the technique of implanting silver ions in glass. Hayakawa et al as discussed above is also aware of implanting ions in glasses (See page 1513, Col. 1, first paragraph). In view of these teachings it would have been obvious to one of ordinary skill in the art to use an in ion implanting technique for adding Ag to the glasses of Hayakawa et al since this process would have been expected to perform in the art desired manner, i.e. implanting silver in glass. With regard to claims 3-4, one of ordinary skill in the art would have been able to decide the order of implanting the silver and rare earth ions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Derrington whose telephone number is 703 308-3832. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7718 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0661.


JAMES DERRINGTON
PRIMARY EXAMINER
ART UNIT 137-1731